

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

SAMUEL R. BALLENGEE,

Plaintiff,

v.

CBS BROADCASTING INC., et al.,

Defendants.

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Civil Action No. 2:17-cv-00212

DEFENDANTS' MOTION TO DISMISS

COME NOW Defendants CBS Broadcasting Inc., CBS News Inc., Jim Axelrod, Ashley Velie, and Scott Pelley,¹ by counsel, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and hereby request that this Court enter an Order dismissing, with prejudice, this civil action for failure to state a claim upon which relief can be granted. In support of this Motion, Defendants adopt and incorporate herein each and every argument and contention set forth in the accompanying Memorandum of Law in Support and the exhibits attached hereto.

WHEREFORE, for the reasons more fully explained in the accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss incorporated herein, Defendants request that the Court enter an Order granting this Motion and dismissing this case with prejudice, together with such other and further relief as the Court deems necessary.

Dated: March 13, 2017

Respectfully submitted,

CBS BROADCASTING INC.,
CBS NEWS INC., JIM AXELROD,
ASHLEY VELIE, and SCOTT PELLEY.

BY COUNSEL:

/s/ Thomas V. Flaherty
Thomas V. Flaherty (WVSB #1213)

¹ CBS Corporation, initially named a defendant, has been dismissed as a party by stipulation.

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CERTIFICATE OF SERVICE

I hereby certify that, on this 13th day of March 2017, I caused a true and correct copy of the foregoing Defendants' Motion to Dismiss and the exhibits attached hereto (except for the physical copy of the DVD) to be served via ECF, and a courtesy copy of same including the physical copy of the DVD to be served via first class mail, postage prepaid, upon counsel for the plaintiff as follows:

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